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PTO/SB/21 (09-04)

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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

\*14

Application Number

10/617,489

Filing Date

July 10, 2003

First Named Inventor

Thomas L. CANTOR

Art Unit

1641

Examiner Name

C. Cheu

Attorney Docket Number

532212000623

**ENCLOSURES (Check all that apply)**☒ Fee Transmittal Form (1 page plus duplicate)☐ Fee Attached☐ Amendment/Reply☐ After Final☐ Affidavits/declaration(s)☐ Extension of Time Request☐ Express Abandonment Request☒ Information Disclosure Statement (5 pages)☐ Certified Copy of Priority Document(s)☐ Reply to Missing Parts/Incomplete Application☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a Provisional Application☐ Power of Attorney, Revocation Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s) \_\_\_\_\_☐ Landscape Table on CD☐ After Allowance Communication to TC☐ Appeal Communication to Board of Appeals and Interferences☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s) (please identify below):PTO/SB/08a/b Form (3 pages plus duplicate)  
References (67)  
Return Receipt Postcard

\*[Note: Duplicate copy of Transmittal, Fee Transmittal, SIDS, and PTO/SB/08a/b is enclosed in Box #2. - 14 pages]

Remarks

CUSTOMER NO. 25225

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name

MORRISON &amp; FOERSTER LLP

Signature

Printed name

Peng Chen

Date

April 19, 2006

Reg. No.

43,543

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill Nos. Box #1 - EV 743885419 US and Box #2 - EV 743885405 US, in two boxes addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: April 19, 2006

Signature:

(Lenay Rogus)

sd-312026



<b>FEE TRANSMITTAL</b> <b>For FY 2006</b>		<b>Complete if Known</b>	
		Application Number	10/617,489
		Filing Date	July 10, 2003
		First Named Inventor	Thomas L. CANTOR
		Examiner Name	C. Cheu
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27	Art Unit	1641	
<b>TOTAL AMOUNT OF PAYMENT</b>	<b>(\$)</b> 180.00	Attorney Docket No.	532212000623

**METHOD OF PAYMENT (check all that apply)**

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): \_\_\_\_\_

☒ Deposit Account Deposit Account Number: 03-1952 Deposit Account Name: Morrison & Foerster LLP

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

**FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)**

**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	<u>Small Entity</u> Fee (\$)	Fee (\$)	<u>Small Entity</u> Fee (\$)	Fee (\$)	<u>Small Entity</u> Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Small Entity	
	Fee (\$)	Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

<u>Total Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
69	- 101	x	=

HP = highest number of total claims paid for, if greater than 20.

<u>Indep. Claims</u>	<u>Extra Claims</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
6	- 6	x	=

HP = highest number of independent claims paid for, if greater than 3.

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each additional 50 or fraction thereof</u>	<u>Fee (\$)</u>	<u>Fee Paid (\$)</u>
	- 100 =	/50	(round up to a whole number) x	=

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)	<u>Fees Paid (\$)</u>
Other (e.g., late filing surcharge): 1806 Submission of an Information Disclosure Statement	180.00

**SUBMITTED BY**

Signature		Registration No. (Attorney/Agent)	43,543	Telephone	(858) 720-5117
Name (Print/Type)	Peng Chen	Date	April 19, 2006		

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill Nos. Box #1 - EV 743885419 US and Box #2 - EV 743885405 US, in two boxes addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

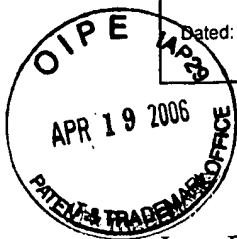
Dated: April 19, 2006

Signature:

*Lenay Rogus*  
(Lenay Rogus)

Patent

Docket No. 532212000623



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Thomas L. CANTOR

Serial No.: 10/617,489

Filing Date: July 10, 2003

For: METHODS, KITS AND ANTIBODIES  
FOR DETECTING PARATHYROID  
HORMONE

Examiner: C. Cheu

Group Art Unit: 1641

**SUPPLEMENTAL INFORMATION DISCLOSURE  
STATEMENT UNDER 37 C.F.R. § 1.97 & 1.98**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. §1.97 and § 1.98, Applicant submits for consideration in the above-identified application the documents listed on the attached Form PTO/SB/08a/b. Copies of non-patent literature documents are submitted herewith. The Examiner is requested to make these documents of record.

Document numbers 5-47 are from *Nichols Institute Diagnostics, Inc. v. Scantibodies Clinical Laboratory Inc. and Scantibodies Laboratory, Inc.*, U.S.D.C. for the Southern District of California, Case No. 02 CV 0046 B (LAB), currently on appeal at the United States Court of Appeals for the Federal Circuit.

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Document numbers 48-63 are from the prosecution histories of the patent owners' related U.S. patent and applications: US 6,743,590 B1; US2004/185536 A1; US2004/229281 A1; and US2005/095631 A1.

Document numbers 64-67 are from the prosecution history of the patent owners' related PCT Patent Applications: WO 00/42437 A1; WO 2005/018413 A2; and WO 2005/018413 A3.

Document numbers 68-70 are from a reexamination proceeding of United States Patent No. 6,030,790, now assigned control No. 90/007,412.

Document number 71 is from a reexamination proceeding of United States Patent No. 6,689,566.

Pursuant to MPEP § 2004.13, the applicant points out the following:

Related U.S. and foreign patent and applications

- US 6,743,590 B1 (the '590 patent) is a continuation-in-part (CIP) of US 6,689,566 B1 (the '566 patent). The present application is a CIP of the '590 patent. Applicant submits herewith certain office actions and responses to the office actions from the prosecution history of the '590 patent (Document numbers 47-59).
- US2004/185536 A1 is a continuation application of the '590 patent. Applicant submits herewith the application and the preliminary amendment. (Document numbers 60-61).
- US2004/229281 A1 is a continuation application of the '590 patent. Applicant submits herewith the application and the preliminary amendment. (Document number 62).
- US2005/095631 A1 is continuation of U.S. Patent Application No. 10/760,091, filed on January 16, 2004, now pending, which is a continuation of the '590

patent. Applicant submits herewith the application and the preliminary amendment. (Document number 63).

- PCT application WO 00/42437 claims priority from the '566 and the '590 patents. PCT application WO 05/01843 claims priority from U.S. Patent Application No. 10/617,489, the present application, which is a CIP of the '590 patent. Applicant submits herewith certain office actions and responses to the office actions from the prosecution history of these two applications (Document numbers 64-67).

Nichols v. Scantibodies. Applicant wishes to bring the Examiner's attention to the following papers from this proceeding:

- On February 1, 2006, the Federal Circuit granted Scantibodies' motion for a stay of the injunction pending appeal (Document No. 35 of the present Form PTO/SB/08a/b).

Reexamination of US patent No. 6,030,790, now assigned control No. 90/007,412

- Nichols filed a First Amendment and Response to Reexamination Office Action on November 28, 2005 (Document No. 71 of the Form PTO/SB/08a/b submitted with the IDS on January 13, 2006) and a Supplemental Amendment on March 7, 2006 (Document No. 69 of the present Form PTO/SB/08a/b).

Reexamination of the '566 patent

- Scantibodies commenced a civil action for patent infringement based on the '566 patent: *Scantibodies v. Immutopics*. Both Scantibodies and Immutopics filed a Request for *Ex Parte* Reexamination of U.S. Patent 6,689,566. The U.S. PTO merged the two reexamination proceedings (control Nos. 90/007,685 and

90/007,732) on February 16, 2006 (Document No. 71 of the present Form PTO/SB/08a/b).

This Information Disclosure Statement is submitted:

- ☐ With the application; accordingly, no fee or separate requirements are required.
- ☐ Before the mailing of a first Office Action after the filing of a Request for Continued Examination under § 1.114. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.
- ☐ Within three months of the application filing date or before mailing of a first Office Action on the merits; accordingly, no fee or separate requirements are required. However, if applicable, a certification under 37 C.F.R. § 1.97 (e)(1) has been provided.
- ☒ After receipt of a first Office Action on the merits but before mailing of a final Office Action or Notice of Allowance.
  - ☐ A fee is required. A check in the amount of \_\_ is enclosed.
  - ☒ A fee is required. Accordingly, a Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.
  - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above; accordingly, no fee is believed to be due.
- ☐ After mailing of a final Office Action or Notice of Allowance, but before payment of the issue fee.
  - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a check in the amount of \_\_ is enclosed.
  - ☐ A Certification under 37 C.F.R. § 1.97(e) is provided above and a Fee Transmittal form (PTO/SB/17 is attached to this submission in duplicate.)


Applicant would appreciate the Examiner initialing and returning the Form PTO/SB/08a/b, indicating that the information has been considered and made of record herein.

The information contained in this Information Disclosure Statement under 37 C.F.R. § 1.97 and § 1.98 is not to be construed as a representation that: (i) a complete search has been made; (ii) additional information material to the examination of this application does not exist; (iii) the information, protocols, results and the like reported by third parties are accurate or enabling; or (iv) the above information constitutes prior art to the subject invention.

In the unlikely event that the transmittal form is separated from this document and the Patent and Trademark Office determines that an extension and/or other relief (such as payment of a fee under 37 C.F.R. § 1.17 (p)) is required, Applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petition and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing 532212000623.

Dated: April 19, 2006

Respectfully submitted,

By   
Peng Chen  
Registration No.: 43,543  
MORRISON & FOERSTER LLP  
12531 High Bluff Drive  
Suite 100  
San Diego, California 92130-2040  
(858) 720-5117



ALTERNATIVE TO PTO/SB/08a/b (07-05)

<b>Substitute for form 1449/PTO</b>  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (Use as many sheets as necessary)				<b>Complete if Known</b>	
				Application Number	10/617,489
				Filing Date	July 10, 2003
				First Named Inventor	Thomas L. CANTOR
				Art Unit	1641
				Examiner Name	C. Cheu
Sheet	1	of	3	Attorney Docket Number	532212000623

U.S. PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Document Number Number-Kind Code <sup>2</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
	1.	US-6,743,590	06-01-2004	Cantor	
	2.	US-2004/0219598-A1	11-04-2004	Cantor	
	3.	US-2004/0229281-A1	11-18-2004	Cantor	
	4.	US-2005/0095631-A1	05-05-2005	Cantor	

FOREIGN PATENT DOCUMENTS					
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document Country Code <sup>3</sup> -Number <sup>4</sup> -Kind Code <sup>5</sup> (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear T <sup>6</sup>

\*EXAMINER: Initial if information considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at [www.uspto.gov](http://www.uspto.gov) or MPEP 901.04. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. <sup>6</sup> Applicant is to place a check mark here if English language Translation is attached.

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
	5.	Deposition of Knut Adermann, taken on June 26, 2003	
	6.	Deposition of James T. Carmichael, taken on June 26, 2003	
	7.	Deposition of Roger T. Frost, taken on June 25, 2003	
	8.	Deposition of Allen Garrett, taken on November 6, 2002	
	9.	Deposition of Allen Garrett (30(b)(6)), taken on September 19, 2003	
	10.	Deposition of Frank Hall, M.D., taken on September 9, 2003	
	11.	Deposition of Michael R. Hamrell, taken on January 26, 2005	
	12.	Deposition of Michael Harder, taken June 27, 2003	
	13.	Deposition of Dieter Hock, Ph.D., taken on November 18, 2002	
	14.	Deposition of Hartmut Malluche, M.D., taken on September 26, 2003	
	15.	Deposition of Vivian Shen, taken on June 25, 2003	
	16.	Deposition of Ellen Vitetta, taken on January 20, 2005	
	17.	Deposition of Thomas Wiseman, taken on January 25, 2005	
	18.	Scantibodies' Motion to Dismiss Nichols' Cross-Appeal, filed January 10, 2006	
	19.	Appellant's Appendix to Scantibodies' Motion to Dismiss Nichols' Cross-Appeal, filed January 10, 2006	
	20.	Final Judgment and Stay of Enforcement, filed January 19, 2006	
	21.	Declaration of Katherine L. Parker in Support of Scantibodies' Supplemental Brief in Support of Emergency Motion to Stay Injunction Pending Appeal, filed January 19, 2006	
	22.	Nichols' Response to Scantibodies' Motion to Dismiss Nichols' Cross-Appeal, filed January 23, 2006	
	23.	Plaintiff-Cross Appellant's Appendix to Nichols' Response to Scantibodies' Motion to Dismiss	

Examiner Signature	Date Considered
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Substitute for form 1449/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(Use as many sheets as necessary)</i>			<b>Complete if Known</b>		
			Application Number	10/617,489	
			Filing Date	July 10, 2003	
			First Named Inventor	Thomas L. CANTOR	
			Art Unit	1641	
			Examiner Name	C. Cheu	
Sheet	2	of	3	Attorney Docket Number	532212000623

		Nichols' Cross-Appeal, filed January 23, 2006	
	24.	Scantibodies' Reply in Support of Motion to Dismiss Nichols' Cross-Appeal, filed January 25, 2006	
	25.	Declaration of John E. Peterson in Support of Nichols Institute Diagnostics, Inc.'s Motion For Judgment as a Matter of Law on Damages, filed January 27, 2006	
	26.	Notice of Motion and Motion for Nichols Institute Diagnostics, Inc.'s Motion For Judgment as a Matter of Law on Damages, filed January 27, 2006	
	27.	Memorandum of Points and Authorities in Support of Nichols Institute Diagnostics, Inc.'s Motion For Judgment as a Matter of Law on Damages, filed January 27, 2006	
	28.	Nichols Institute Diagnostics, Inc.'s Notice of Motion and Motion for Judgment as a Matter of Law Re: Willfulness and in the Alternative for a New Trial, filed January 27, 2006	
	29.	Nichols Institute Diagnostics, Inc.'s Motion for Judgment as a Matter of Law Re: Willfulness and in the Alternative for a New Trial, filed January 27, 2006	
	30.	Declaration of April M. Alex in Support of Nichols Institute Diagnostics, Inc.'s Motion for Judgment as a Matter of Law Re: Willfulness and in the Alternative for a New Trial, filed January 27, 2006	
	31.	Nichols Institute Diagnostics, Inc.'s Notice of Motion and Motion for Enhancement of Damages, filed January 27, 2006	
	32.	Nichols Institute Diagnostics, Inc.'s Memorandum of Points and Authorities in Support of Motion for Enhancement of Damages, filed January 27, 2006	
	33.	Declaration of April M. Alex in Support of Motion for Enhancement of Damages, filed January 27, 2006	
	34.	Appellants Scantibodies' Opening Brief, filed January 30, 2006	
	35.	Order Granting Stay Pending Appeal and Dismissing Nichols' Cross-Appeal, filed February 1, 2006	
	36.	Declaration of April M. Alex in Support of Nichols Institute Diagnostics, Inc.'s Application for Award of Attorney's Fees and Expenses, filed February 2, 2006	
	37.	Notice of Motion and Motion in Support of Nichols Institute Diagnostics, Inc.'s Memorandum of Points and Authorities in Support of Application for Award of Attorneys' Fees and Expenses, filed February 2, 2006	
	38.	Nichols Institute Diagnostics, Inc.'s Memorandum of Points and Authorities in Support of Application for Award of Attorneys' Fees, filed February 2, 2006	
	39.	Declaration of April M. Alex in Support of Nichols Institute Diagnostics, Inc.'s Memorandum in Support of Application to Tax Costs, filed February 2, 2006	
	40.	Scantibodies' Memorandum of Points and Authorities in Support of Opposition to Nichols' Motion for Prejudgment Interest, filed February 17, 2006	
	41.	Consolidated Declaration of Katherine L. Parker in Support of Scantibodies' Oppositions to Nichols' Motions Re 1) Willfulness; 2)Enhanced Damages; and 3) Attorneys' Fees, filed February 17, 2006	
	42.	Scantibodies' Memorandum of Points and Authorities in Support of Opposition to Nichols' Motion for Judgment as a Matter of Law Re: Willfulness and in the Alternative for a New Trial, filed February 17, 2006	
	43.	Scantibodies' Memorandum of Points and Authorities in Support of Opposition to Nichols' Motion for Application for Award of Attorneys' Fees and Expenses, filed February 17, 2006	
	44.	Nichols Institute Diagnostics, Inc.'s Reply in Support of its Application for Award of Attorneys' Fees and Expenses, filed February 27, 2006	
	45.	Nichols Institute Diagnostics, Inc.'s Reply Memorandum of Points and Authorities in Support of	

Examiner Signature		Date Considered	
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Substitute for form 1449/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  <i>(Use as many sheets as necessary)</i>				<b>Complete if Known</b>	
				Application Number	10/617,489
				Filing Date	July 10, 2003
				First Named Inventor	Thomas L. CANTOR
				Art Unit	1641
				Examiner Name	C. Cheu
Sheet	3	of	3	Attorney Docket Number	532212000623

		Motion for Enhancement of Damages, filed February 27, 2006	
46.		Nichols Institute Diagnostics, Inc.'s Reply Motion for Prejudgment Interest, filed February 27, 2006	
47.		Nichols Institute Diagnostics, Inc.'s Reply Motion for Judgment as a Matter of Law RE: Willfulness and in the Alternative for a New Trial, filed February 27, 2006	
48.		Office Action for 09/344,639 mailed on September 20, 2000	
49.		Petition for Extension of time of Two Months and Amendment for 09/344,639, dated February 7, 2001	
50.		Declaration of Dr. Ping Gao dated February 7, 2001	
51.		Supplemental Amendment for 09/344,639 dated July 11, 2001	
52.		Supplemental Amendment Under 37 CFR 1.111 for 09/344,639 dated May 20, 2002	
53.		Second Supplemental Amendment for 09/344,639 dated March 18, 2003	
54.		Third Supplemental Amendment for 09/344,639 dated March 28, 2003	
55.		Notice of Allowability for 09/344,639 mailed on April 7, 2003	
56.		Interview Summary for 09/344,639 dated March 11, 2003	
57.		Amendment Under 37 CFR 1.312 for 09/344,639, dated July 8, 2003	
58.		Comments on Statements of Reasons for Allowance for 09/344,639, dated July 8, 2003	
59.		Office Communication for 09/344,639 mailed on December 29, 2003	
60.		Application and Preliminary Amendment for 10/641,780 filed August 15, 2003	
61.		Second Preliminary Amendment for 10/641,780 filed January 3, 2006	
62.		Application and Preliminary Amendment for 10/760,091 filed January 16, 2004	
63.		Application and Preliminary Amendment for 10/945,608 filed on September 20, 2004	
64.		International Preliminary Examination Report for PCT/US00/00855, mailed on February 16, 2001 (WO 00/42437)	
65.		Written Opinion for PCT/US04/21896 mailed on March 7, 2005 (WO 05/01843)	
66.		PCT Demand and Response to the Written Opinion for PCT/US04/21896, mailed on June 6, 2005 (WO 05/01843)	
67.		International Preliminary Report on Patentability for PCT/US04/21896, mailed on September 20, 2005 (WO 05/01843)	
68.		Miscellaneous Communication for Reexam Control No. 90/007,412, filed March 1, 2006	
69.		Supplemental Amendment to Reexam Control No. 90/007,412, filed March 7, 2006	
70.		Miscellaneous Communication for Reexam Control No. 90/007,412, filed March 9, 2006	
71.		Decision Merging Reexamination Proceedings Control No. 90/007,685 and 90/007,732, mailed on February 16, 2006	

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup>Applicant's unique citation designation number (optional). <sup>2</sup>Applicant is to place a check mark here if English language Translation is attached.

Examiner Signature		Date Considered	
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sd- 311223